

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

RICHARD VAUGHN,)
Plaintiff,)
v.)
LINCOLN NATIONAL LIFE INSURANCE) Civil Action No. _____
COMPANY, LINCOLN NATIONAL) Jury Demand
CORPORATION, and GUARANTEE LIFE)
INSURANCE COMPANY,)
Defendants.)

Electronically Filed

JOINT NOTICE OF REMOVAL

Defendants, The Lincoln National Life Insurance Company ("Lincoln National") and Lincoln National Corporation ("LNC"), pursuant to the provisions of 28 U.S.C. § 1441 and 28 U.S.C. § 1446, respectfully submit this Joint Notice of Removal for the purpose of removing the above-captioned action from the Rutherford County Circuit Court, State of Tennessee, to the United States District Court for the Middle District of Tennessee. As grounds for this Joint Notice of Removal, Defendants state as follows:

1. On or about January 9, 2015, Plaintiff Richard Vaughn filed a Complaint and Jury Demand in the above-captioned action in the Circuit Court for Rutherford County, Tennessee, Case No. 69096.
2. Plaintiff served LNC with a copy of the Complaint and Summons through service on Dennis R. Glass, President, Lincoln National Corporation, on January 20, 2015, a date less than 30 days before the filing of this Joint Notice of Removal.

3. Plaintiff served Lincoln National with a copy of the Complaint and Summons through service on its statutory agent for service of process, Commissioner of the Tennessee Department of Commerce and Insurance, on February 9, 2015, a date less than 30 days before the filing of this Joint Notice of Removal.

4. This action is of a civil nature wherein the Plaintiff seeks the recovery of certain long-term disability benefits that he alleges are due under the terms of an employee welfare benefit plan (the "Plan") sponsored by the decedent's former employer, the City of Murfreesboro, Tennessee (the "City"). Declaration of Cindy Daly, ¶ 5. On information and belief, certain long-term disability benefits under the Plan were funded by a long-term disability (the "LTD Policy") issued to the City by Lincoln National's predecessor. *See* Complaint, ¶¶ 3, 9; Declaration of Cindy Daly, ¶ 7 and Exhibit 1, filed contemporaneously herewith. Richard Vaughn was employed by the City and was a participant in the Plan. Declaration of Cindy Daly, ¶ 6.

5. Removal is proper because this Court has original jurisdiction over this action under 28 U.S.C. § 1332(a)(1). First, the parties are citizens of different states. Specifically, Lincoln National is organized and existing pursuant to the laws of the State of Indiana with principal places of business located in Fort Wayne, Indiana and Radnor, Pennsylvania. 28 U.S.C. § 1132(c)(1). Declaration of Cindy Daly, ¶ 3. LNC is organized and existing pursuant to the laws of the State of Indiana with its principal place of business located in Radnor, Pennsylvania. 28 U.S.C. § 1132(c)(1). Declaration of Cindy Daly, ¶ 4. Plaintiff is a citizen and resident of Rutherford County, Tennessee. Compl. ¶ 1. Therefore, Plaintiff is completely diverse from Lincoln National and LNC.¹

¹ Defendant Guarantee Life Insurance Company ("Guarantee"), is an entity that no longer exists. Guarantee was merged into Jefferson Pilot Financial Insurance Company ("Jefferson Pilot") in 2000. Jefferson Pilot subsequently merged into Lincoln National effective July 2, 2007. Declaration of Cindy Daly, ¶ 9. Because (*footnote continued on following page ...*)

6. The amount in controversy exceeds the jurisdictional minimum of \$75,000.00. Specifically, Plaintiff seeks the recovery of compensatory damages in the amount of \$100,000. Complaint, Prayer for Relief. Defendants deny that Plaintiff is entitled to any damages whatsoever.

7. Based on the foregoing, this Court has original jurisdiction of this case pursuant to 28 U.S.C. § 1332(a), as amended, because the amount in controversy exceeds the jurisdictional minimum of \$75,000.00, and this action is between citizens of different states. Thus, this case is properly removable pursuant to 28 U.S.C. § 1441, *et seq.*

8. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b) because it is filed within thirty days of receipt "by the defendant[s], through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based." 28 U.S.C. § 1446(b).

9. Copies of all process, pleadings, and orders received by Defendant LNC and Defendant Lincoln National in this action prior to the filing of this Notice of Removal are attached hereto as Exhibit A and Exhibit B respectively, and are incorporated herein by this reference.

WHEREFORE, Defendants, The Lincoln National Life Insurance Company and Lincoln National Corporation, respectfully submit, based upon the allegations set forth in this Notice of Removal, that this action is properly removed and request that this Court retain jurisdiction over this action.

(... footnote continued from previous page)

Guarantee no longer exists, it is not a proper defendant in this case and its consent to removal is not needed for this lawsuit to be removed to United States District Court.

Dated: February 20, 2015.

Respectfully submitted,

/s/ John M. Scannapieco

John M. Scannapieco (BPR No. 14473)

Martha L. Boyd (BPR No. 22029)

BAKER DONELSON BEARMAN CALDWELL &
BERKOWITZ, P.C.

211 Commerce Street, Suite 800

Nashville, Tennessee 37201

(615) 726-5648

jscannapieco@bakerdonelson.com

mboyd@bakerdonelson.com

*Attorneys for Defendants, The Lincoln National Life
Insurance Company and Lincoln National
Corporation*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served electronically by operation of the Court's electronic filing system or via U.S. first class mail, postage pre-paid, to Jay B. Jackson, Esq., Mitchell & Mitchell, 106 East College Street, P.O. Box 1336, Murfreesboro, TN 37130, on this 20th day of February, 2015.

/s/ John M. Scannapieco

John M. Scannapieco

STATE OF TENNESSEE
16th JUDICIAL DISTRICT
CIRCUIT COURT

SUMMONS

CASE FILE NUMBER
69096

PLAINTIFF

RICHARD VAUGHN

DEFENDANT

vs.
LINCOLN NATIONAL LIFE
INSURANCE COMPANY, et. Al.

TO: (NAME & ADDRESS OF DEFENDANT)

Lincoln National Corporation
C/O Dennis R. Glass, President
1300 South Clinton Street
P.O. Box 7869
Fort Wayne, IN 46801-7869

LINCOLN

Referred to _____

JAN 21 2015

Answered

LEGAL DEPARTMENT

List each defendant on a separate summons.

YOU ARE HEREBY SUMMONED TO DEFEND A CIVIL ACTION FILED AGAINST YOU IN CIRCUIT COURT, RUTHERFORD COUNTY, TENNESSEE. YOUR DEFENSE MUST BE MADE WITHIN THIRTY (30) DAYS FROM THE DATE THIS SUMMONS IS SERVED UPON YOU. YOU ARE DIRECTED TO FILE YOUR DEFENSE WITH THE CLERK OF THE COURT AND SEND A COPY TO THE PLAINTIFF'S ATTORNEY AT THE ADDRESS LISTED BELOW. IF YOU FAIL TO DEFEND THIS ACTION BY THE ABOVE DATE, JUDGEMENT BY DEFAULT CAN BE RENDERED AGAINST YOU FOR THE RELIEF SOUGHT IN THE COMPLAINT.

Attorney for plaintiff:

(Name, address & telephone number)
JAY B. JACKSON
MITCHELL & MITCHELL
P. O. BOX 1336
MURFREESBORO, TN 37130
(615) 896-4211

DATE ISSUED & ATTESTED

January 9, 2015

Melissa Harrell, Circuit Court Clerk

BY: *R. Vaughn* Deputy Clerk

CERTIFICATION

I, *Melissa Harrell*, Clerk of the Circuit Court of Rutherford County, Tennessee, do certify this to be a true and correct copy of the original summons issued in this cause.

BY: *R. Vaughn*

DEPUTY CLERK

TO THE SHERIFF:

Please execute this summons and make your return within thirty days of issuance as provided by law.

DATE RECEIVED

Sheriff

RETURN ON PERSONAL SERVICE OF SUMMONS

I hereby certify and return that I served this summons together with the complaint as follows:

DATE OF PERSONAL SERVICE:

Sheriff

BY:

Submit three copies: service copy, defendant's copy, file copy.

 ADA COORDINATOR (615-494-4480)

ACCEPTANCE OF SERVICE

I do hereby accept service of process and a copy of this complaint in this cause for all purposes.
This the _____ day of _____, 20 _____. .

RETURN ON SERVICE OF SUMMONS BY MAIL

I hereby certify and return that on the _____ day of _____, 20 ___, I sent, postage prepaid by registered return receipt mail or certified return receipt mail, a certified copy of the summons and a copy of the complaint in case # _____ to the defendant _____, on the _____ day of _____, 20 ___. I received the return receipt, which has been signed by _____ on the _____ day of _____, 20 ___. The return receipt is attached to this original summons to be filed by the Clerk of Court.

Sworn to and subscribed before me on this _____
day of _____, 20 _____.
Signature of Notary Public or Deputy Clerk

My Commission Expires: . 20 .

**NOTICE OF PERSONAL
PROPERTY EXEMPTION**

TO THE DEFENDANT(S):

Tennessee law provides a ten thousand dollar (\$10,000.00) debtor's equity interest personal property exemption from execution or seizure to satisfy judgement. If a judgement should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the clerk of the court. The list may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgement becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed; these include items of necessary wearing apparel (clothing) for yourself and your family and trunks or other receptacles necessary to contain such apparel, family portraits, the family Bible, and school books. Should any of these items be seized you would have the right to recover them. If you do not understand your exemption right or how to exercise it, you may wish to seek the counsel of a lawyer.

Mail list to: Laura Bohning, Circuit Court Clerk
Room 201 Judicial Building
20 Public Square North
Murfreesboro, TN 37130

ATTACH
RETURN
RECEIPT
HERE
(IF APPLICABLE)

IN THE CIRCUIT COURT FOR RUTHERFORD COUNTY, TENNESSEE
AT MURFREESBORO

RICHARD VAUGHN,

Plaintiff,

vs.

LINCOLN NATIONAL LIFE
INSURANCE COMPANY, LINCOLN
NATIONAL CORPORATION, and
GUARANTEE LIFE INSURANCE
COMPANY,

Defendant.

LINCOLN

Referred to _____)

JAN 21, 2015

Answered

CASE NO. 69096
JURY DEMAND

LEGAL DEPARTMENT

FILED

JAN 09 2015

3:10 O'CLOCK
MELISSA HARRIS

DEPUTY CLERK

COMPLAINT

Comes now the Plaintiff, Richard Vaughn, by and through his undersigned attorney, and sues the Defendant, Lincoln National Life Insurance Company, Lincoln National Corporation and Guarantee Life Insurance Company, as follows:

1. The Plaintiff is a citizen and resident of the State of Tennessee and Rutherford County, Tennessee;
2. The Defendants, Lincoln National Life Insurance Company, Lincoln National Corporation and Guarantee Life Insurance Company, are authorized by and does business in the State of Tennessee, including Rutherford County, Tennessee;

FACTUAL ALLEGATIONS

3. This Defendant provided to the City of Murfreesboro, Tennessee employees a policy of insurance for disability in the years 2011 and 2012;
4. The Plaintiff made a claim under said policy for disability as he was injured while he was employed by the City of Murfreesboro, Tennessee;
5. This claim was received and processed by the Defendant who denied his claim and letter dated January 11, 2012. A copy of said letter is attached;

6. The Defendant breached its terms under said policy and that its denial of said claim is a breach of the terms of its disability insurance policy with the Plaintiff;

7. The Plaintiff was injured on or about September 14, 2009, and filed a worker's compensation claim and later a claim for long term disability with the Defendant;

CAUSE OF ACTIONS

COUNT I
BREACH OF CONTRACT

8. The Plaintiff incorporates by reference the factual allegations contained in paragraphs 1 through 7.

9. The Plaintiff entered into a contract with the Defendant regarding disability insurance through his employment or was the third party beneficiary of an agreement between the Defendants and the City of Murfreesboro, Tennessee. This Plaintiff is without a copy of said Policy or Agreement and is unable to attach a copy of it;

10. The Plaintiff filed a claim pursuant to this policy and Plaintiff contends that he was entitled to benefits pursuant to the terms of said policy;

12. As a result and proximate result of this breach of contract, the Plaintiff has suffered damages. These damages include, but are not limited to, the cost of all benefits that he is entitled to pursuant to the terms of said policy, pre-judgment interest, reasonable attorney fees and all back benefits that Plaintiff is entitled to pursuant to the terms of said policy. The Plaintiff also requests any and all further compensatory damages which proximately flowed from the actions of the Defendants.

WHEREFORE all premises considered, the Plaintiff requests the relief requested above and the following:

1. That the Defendant be required to answer in the time required by law.
2. That the Plaintiff be given a jury trial of twelve on all issues.

3. That the Plaintiff be awarded a judgment for damages against the Defendant for their breach of contract.

4. The total compensation damage and judgment sought by the Plaintiff are \$100,000.00 for compensatory damages.

5. That the Plaintiff are awarded a judgment and any other damages which may be allowed under the Tennessee law including all reasonable lawyer fees, litigation costs and expert fees incurred to prosecute this case.

6. That the Plaintiff be awarded any additional relief the Court deems just and proper.

Respectfully submitted,

JAY B. JACKSON #016745
Attorney for Plaintiff
MITCHELL & MITCHELL
106 East College Street
Post Office Box 1336
Murfreesboro, Tennessee 37130
(615) 896-4211

SURETY

I am surety in this case for costs in this cause.

Jay B. Jackson

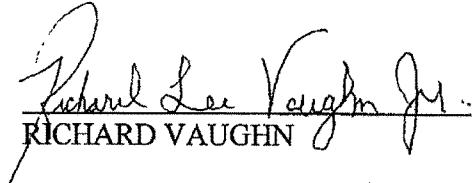
State of Tennessee, Rutherford County
The undersigned, Circuit Court Clerk, of
the said County and State, hereby certifies
that the foregoing is a correct copy of
the instrument filed in the foregoing case
in the Circuit Court of Murfreesboro, Tennessee.
This 9 day of January 2015

MELISSA HARREL

Deputy Clerk.

STATE OF TENNESSEE
COUNTY OF RUTHERFORD

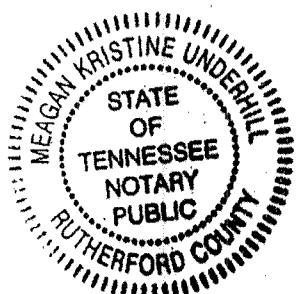
I, RICHARD VAUGHN, having been first duly sworn, make oath that the statements contained in my complaint are true and correct to the best of my knowledge, information and belief.


Richard Vaughn Jr.
RICHARD VAUGHN

SWORN TO and subscribed before me this 9th day of January, 2015.


Meagan Kristine Underhill
NOTARY PUBLIC

My Commission Expires: 06/19/2016





Lincoln Financial Group is the marketing name for Lincoln National Corporation and its affiliates.

January 11, 2012

The Lincoln National Life
Insurance Company
Service Office:
8801 Indian Hills Drive
Omaha, NE 68114-4066
toll free (800) 423-2765
www.LFG.com

RICHARD VAUGHN
7313 POLK DRIVE
MURFREESBORO TN 37129

Re: Policy Number: 00001000310700000
Claim Number: 1100064258

Dear Mr. Vaughn:

We have completed our review of your Long Term Disability claim and have determined that we must deny benefits beyond 01/06/12.

The Policy issued to City Of Murfreesboro, Tennessee contains, but is not limited to the following:

"Total Disability" or "Totally Disabled" will be defined as follows.

1. During the Elimination Period and Own Occupation Period, it means that due to an Injury or Sickness the Insured Employee is unable to perform each of the main duties of his or her regular occupation.
2. After the Own Occupation Period, it means that due to an Injury or Sickness the Insured Employee is unable to perform each of the main duties of any gainful occupation which his or her training, education or experience will reasonably allow.

The loss of a professional license, an occupational license or certification, or a driver's license for any reason does not, by itself, constitute Total Disability.

The Own Occupation Period for this claim ended on 01/06/12. After a thorough review of the information currently contained in your claim file, we have determined you are capable of performing work in other occupations. Outlined below is the information reviewed which led to our determination.

Information review and action taken

In our review of your claim, all previously submitted as well as any new documentation is used to make a determination.

We evaluated current information from your physician(s), as well as other sources, including vocational information. The documentation contained in your claim file includes the following:

- Attending Physician Statement completed by Concentra Medical Center dated 04/02/10
- Attending Physician Statement completed by Dr. John Kuhn dated 04/15/10
- Attending Physician Statement completed by Dr. Tom Johns (undated)
- Office and treatment notes from Dr. Jeffrey Hazelwood dated 02/24/10 to 03/09/11

Richard Vaughn
January 11, 2012
page 2 of 4

- Office and treatment notes from Tennessee Orthopaedic Alliance dated 11/03/09 to 08/24/10.
- Office and treatment notes from Dr. Chad Price dated 03/03/11 to 07/12/11
- Records from Middle Tennessee Ambulatory Surgery dated 11/09/09 and 08/13/10

Furthermore, we reviewed your past training, education and work experience to evaluate your capacity to perform work-related activity.

Medical records in your file show your initial evaluation with Dr. Jeffrey Hazelwood was on 10/13/10. The records note your injury dates back to 09/14/09 when you were lifting a co-worker in simulation and developed soreness then worsening pain. An MRI showed a labral tear and you underwent a SLAP surgery to repair this on 11/09/09.

Physical therapy was initiated; however, you failed to improve. An EMG on 02/24/10 was unremarkable.

Further surgery was performed on 08/13/10 with additional physical therapy and Dr. Hazelwood released you to return to work with a 5 pound weight limit to which your employer was unable to accommodate.

You consulted Dr. Chad Price on 03/03/11. You advised Dr. Price, an MRI arthrogram ordered by Dr. Kioschos showed a recurrent left shoulder SLAP tear. On 04/29/11, you underwent a left shoulder scope, biceps tenotomy, subacrominal decompression and Mumford procedure. In follow up on 05/05/11, you have been doing well and your pain is a little bit better and your motion is better.

On 06/02/11, you were treated by Dr. Chad Price. Your motion has improved; however you continue to have pain. Voltaren and Diclofane provided no relief. You continue working with therapy and are pleased with your progress up to this point. Physical exam shows active elevation is to 90 before you develop pain, passive elevation is 120, external and internal rotation is 35. Dr. Price continues to recommend no overhead work and no lifting, pushing or pulling greater than 20 pounds.

The documentation provided suggests you are not limited from working in a sedentary work capacity. The definition of sedentary work capacity, as defined by the Department of Labor, is outlined as:

Sedentary: Sitting for 6 hours out of an 8-hour day and lifting no more than 10 pounds occasionally.

Using The Dictionary of Occupation Titles as a reference, we found that you would be capable of performing the following occupations:

Richard Vaughn
January 11, 2012
page 3 of 4

<u>DOT#</u>	<u>Occupation</u>	<u>Wage (mean)</u>	<u>Physical Demand</u>
1. 249.362-026	Order Clerk	\$32,153 Annual	Sedentary
2. 205.367-062	Referral Clerk Temporary Help Agency	\$33,350 Annual	Sedentary
3. 205.362-014	Employment Clerk	\$37,987 Annual	Sedentary

The preceding list is just a sample of various jobs that you show transferable skills to perform. The list is not all-inclusive and is only a sample of possibilities. The jobs listed are found to exist within your area and are appropriate from the standpoint of adequate salary levels relative to your prior earnings. NOTE: Current hiring or job availability is not a consideration when identifying occupational alternatives; only that the occupations identified exist within the local labor market.

Summary

In summary, it is our determination that based upon your age, education, training, past work experience and your current abilities, that you are not prevented from performing work in other occupations, even if you can no longer perform your Own Occupation. Therefore, you no longer meet the definition of disability in this policy and benefits will be denied as of 01/06/12. Your payment for benefits through 01/06/12 has previously been sent under separate cover.

As a reminder, on 01/06/12 your Own Occupation Period of the policy ends. This means, to qualify for ongoing Total Disability benefits, you must have restrictions and limitations beyond 01/06/12 that render you unable to work in any gainful occupation (sedentary or otherwise) that your past training, education and experience will reasonably allow. If you believe that your condition prevents you from working in any occupation, please submit medical records, not previously submitted, that will help us evaluate your capacity to work as of 01/06/12. You may send the information to my attention at the address listed on the letterhead or you may fax the information directly to my attention at 402-501-9640. After reviewing the information, we will be in further contact with you regarding your claim for continued benefits after 01/06/12.

Appeal Rights

You, your attorney or a person legally authorized as your representative may request a review of your denied claim. Such request must be made in writing and submitted to us at the address below within 180 days after you receive this denial notice.

Risk Services
The Lincoln National Life Insurance Company
PO Box 2337
Omaha, NE 68103

Richard Vaughn
January 11, 2012
page 4 of 4

Fax: 402-361-1460

Your request for an appeal needs to include the following:

- A letter of appeal outlining the reason(s) for your appeal. This letter needs to include your policy number and claim number.
- Medical records to support your appeal such as office and treatment notes, laboratory results, x-rays and testing results.

If you wish, you may also request copies of the pertinent documents. We will then provide you with a full written explanation of the decision within 45 days of receipt of your appeal.

You and your plan may have other voluntary alternative dispute resolution options, such as mediation, if your plan is subject to ERISA. One way to find out what may be available is to contact your local U.S. Department of Labor Office and your State insurance regulatory agency. In addition, once all required reviews of your claim have been completed, you have the right to bring a civil action under applicable law.

Please contact our office with any questions you may have at the number listed above or email us at Claims@LFG.com. You can also register for our website at www.Lincoln4Benefits.com to view your benefits and claim status online 24 hours a day.

Sincerely,



Cathy Chew
Associate Long Term Benefit Specialist
The Lincoln National Life Insurance Company

Mitchell & Mitchell

ATTORNEYS AT LAW

Post Office Box 13336
Murfreesboro, TN 37133-1336

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

CERTIFIED MAIL



7013 3020 0000 4338 7241


H. H. H.

Lincoln National Corporation
John Dennis Glass, President

1300 South Clinton St.
P.O. Box 18001
Fort Wayne, IN 46801-18001



C O R P O R A T I O N S E R V I C E C O M P A N Y®

WAS / ALL

Transmittal Number: 13470325
Date Processed: 02/16/2015

Notice of Service of Process

Primary Contact: Kelley A Grady
Lincoln Financial Group
150 N Radnor Chester Rd
Radnor, PA 19087

Copy of transmittal only provided to: Ms. Debbie Bauermeister
Ms. Shawn Gross

Entity: The Lincoln National Life Insurance Company
Entity ID Number 0186956

Entity Served: Lincoln National Life Insurance Company

Title of Action: Richard Vaughn vs. Lincoln National Life Insurance Company

Document(s) Type: Summons/Complaint

Nature of Action: Contract

Court/Agency: Rutherford County Circuit Court, Tennessee

Case/Reference No: 69096

Jurisdiction Served: Tennessee

Date Served on CSC: 02/13/2015

Answer or Appearance Due: 30 Days

Originally Served On: TN Department of Commerce and Insurance on 2/09/2015

How Served: Certified Mail

Sender Information: Jay B. Jackson
615-896-4211

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

To avoid potential delay, please do not send your response to CSC
CSC is SAS70 Type II certified for its Litigation Management System.
2711 Centerville Road Wilmington, DE 19808 (888) 690-2882 | sop@cscinfo.com

**STATE OF TENNESSEE
Department of Commerce and Insurance
500 James Robertson Parkway
Nashville, TN 37243-1131
PH - 615.532.5260, FX - 615.532.2788
Jerald.E.Gilbert@tn.gov**

February 09, 2015

**Lincoln National Life Insurance Company
2908 Poston Avenue, % C S C
Nashville, TN 37203
NAIC # 65676**

**Certified Mail
Return Receipt Requested
7012 3460 0002 8947 7060
Cashier # 18675**

**Re: Richard Vaughn V. Lincoln National Life Insurance Company
Docket # 69096**

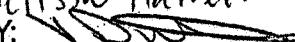
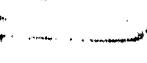
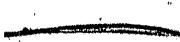
To Whom It May Concern:

Pursuant to Tennessee Code Annotated § 56-2-504 or § 56-2-506, the Department of Commerce and Insurance was served February 09, 2015, on your behalf in connection with the above-styled proceeding. Documentation relating to the subject is herein enclosed.

**Jerald E. Gilbert
Designated Agent
Service of Process**

Enclosures

**cc: Circuit Court Clerk
Rutherford County
20 Public Square North, Rm 201
Murfreesboro, Tn 37130**

STATE OF TENNESSEE 16th JUDICIAL DISTRICT CIRCUIT COURT		SUMMONS	CASE FILE NUMBER 69094
PLAINTIFF Richard Vaughn	DEFENDANT vs. Lincoln National Life Insurance Company, et al.		
TO: (NAME & ADDRESS OF DEFENDANT) Lincoln National Life Insurance Company c/o Tennessee Commissioner of Insurance 500 James Robertson Parkway Nashville, TN 37243			
List each defendant on a separate summons.			
<p>YOU ARE HEREBY SUMMONED TO DEFEND A CIVIL ACTION FILED AGAINST YOU IN CIRCUIT COURT, RUTHERFORD COUNTY, TENNESSEE. YOUR DEFENSE MUST BE MADE WITHIN THIRTY (30) DAYS FROM THE DATE THIS SUMMONS IS SERVED UPON YOU. YOU ARE DIRECTED TO FILE YOUR DEFENSE WITH THE CLERK OF THE COURT AND SEND A COPY TO THE PLAINTIFF'S ATTORNEY AT THE ADDRESS LISTED BELOW. IF YOU FAIL TO DEFEND THIS ACTION BY THE ABOVE DATE, JUDGEMENT BY DEFAULT CAN BE RENDERED AGAINST YOU FOR THE RELIEF SOUGHT IN THE COMPLAINT.</p>			
Attorney for plaintiff: (Name, address & telephone number) JAY B. JACKSON Mitchell & Mitchell 106 E. College St. Murfreesboro, TN 37130-16	<p>DATE ISSUED & ATTESTED 2/3/15 LAURA BOHLING, Circuit Court Clerk MELISSA HAWELL BY:  Deputy Clerk</p>		
<p>CERTIFICATION</p> <p>I, LAURA BOHLING, Clerk of the Circuit Court of Rutherford County, Tennessee, do certify this to be a true and correct copy of the original summons issued in this cause.</p> <p>BY: _____ DEPUTY CLERK</p>			
TO THE SHERIFF: Please execute this summons and make your return within thirty days of issuance as provided by law.	<p>DATE RECEIVED Sheriff</p>		
<p>RETURN ON PERSONAL SERVICE OF SUMMONS</p> <p>I hereby certify and return that I served this summons together with the complaint as follows:</p> <p></p>			
DATE OF PERSONAL SERVICE: _____ BY: _____	<p> Sheriff</p>		

Submit three copies: service copy, defendant's copy, file copy.

 ADA COORDINATOR (615-494-4480)

ACCEPTANCE OF SERVICE

I do hereby accept service of process and a copy of this complaint in this cause for all purposes.
This the _____ day of _____, 20 _____.

RETURN ON SERVICE OF SUMMONS BY MAIL

I hereby certify and return that on the _____ day of _____, 20 ____, I sent, postage prepaid by registered return receipt mail or certified return receipt mail, a certified copy of the summons and a copy of the complaint in case # _____ to the defendant _____, on the _____ day of _____, 20 _____. I received the return receipt, which has been signed by _____ on the _____ day of _____, 20 _____. The return receipt is attached to this original summons to be filed by the Clerk of Court.

Sworn to and subscribed before me on this _____
day of _____, 20 _____.

Signature of Notary Public or Deputy Clerk

My Commission Expires: _____, 20 _____.

NOTICE OF PERSONAL PROPERTY EXEMPTION

TO THE DEFENDANT(S):

Tennessee law provides a ten thousand dollar (\$10,000.00) debtor's equity interest personal property exemption from execution or seizure to satisfy judgement. If a judgement should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the clerk of the court. The list may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgement becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed; these include items of necessary wearing apparel (clothing) for yourself and your family and trunks or other receptacles necessary to contain such apparel, family portraits, the family Bible, and school books. Should any of these items be seized you would have the right to recover them. If you do not understand your exemption right or how to exercise it, you may wish to seek the counsel of a lawyer.

Mail list to: LAURA BOHLENG, Circuit Court Clerk
Room 201 Judicial Building
20 Public Square North
Murfreesboro, TN 37130

Please state file number on list.

ATTACH
RETURN
RECEIPT
HERE
(IF APPLICABLE)

IN THE CIRCUIT COURT FOR RUTHERFORD COUNTY, TENNESSEE
AT MURFREESBORO

RICHARD VAUGHN,)
Plaintiff,)
vs.)
LINCOLN NATIONAL LIFE)
INSURANCE COMPANY, LINCOLN)
NATIONAL CORPORATION, and)
GUARANTEE LIFE INSURANCE)
COMPANY,)
Defendant.)

CASE NO. 69096
JURY DEMAND

FILED

JAN 09 2015

3:10 O'CLOCK
MELISSA HARRELL

BH
DEPUTY CLERK

COMPLAINT

Comes now the Plaintiff, Richard Vaughn, by and through his undersigned attorney, and sues the Defendant, Lincoln National Life Insurance Company, Lincoln National Corporation and Guarantee Life Insurance Company, as follows:

1. The Plaintiff is a citizen and resident of the State of Tennessee and Rutherford County, Tennessee;
2. The Defendants, Lincoln National Life Insurance Company, Lincoln National Corporation and Guarantee Life Insurance Company, are authorized by and does business in the State of Tennessee, including Rutherford County, Tennessee;

FACTUAL ALLEGATIONS

3. This Defendant provided to the City of Murfreesboro, Tennessee employees a policy of insurance for disability in the years 2011 and 2012;
4. The Plaintiff made a claim under said policy for disability as he was injured while he was employed by the City of Murfreesboro, Tennessee;
5. This claim was received and processed by the Defendant who denied his claim and letter dated January 11, 2012. A copy of said letter is attached;

6.. The Defendant breached its terms under said policy and that its denial of said claim is a breach of the terms of its disability insurance policy with the Plaintiff;

7. The Plaintiff was injured on or about September 14, 2009, and filed a worker's compensation claim and later a claim for long term disability with the Defendant;

CAUSE OF ACTIONS

COUNT I
BREACH OF CONTRACT

8. The Plaintiff incorporates by reference the factual allegations contained in paragraphs 1 through 7.

9. The Plaintiff entered into a contract with the Defendant regarding disability insurance through his employment or was the third party beneficiary of an agreement between the Defendants and the City of Murfreesboro, Tennessee. This Plaintiff is without a copy of said Policy or Agreement and is unable to attach a copy of it;

10. The Plaintiff filed a claim pursuant to this policy and Plaintiff contends that he was entitled to benefits pursuant to the terms of said policy;

12. As a result and proximate result of this breach of contract, the Plaintiff has suffered damages. These damages include, but are not limited to, the cost of all benefits that he is entitled to pursuant to the terms of said policy, pre-judgment interest, reasonable attorney fees and all back benefits that Plaintiff is entitled to pursuant to the terms of said policy. The Plaintiff also requests any and all further compensatory damages which proximately flowed from the actions of the Defendants.

WHEREFORE all premises considered, the Plaintiff requests the relief requested above and the following:

1. That the Defendant be required to answer in the time required by law.
2. That the Plaintiff be given a jury trial of twelve on all issues.

3. That the Plaintiff be awarded a judgment for damages against the Defendant for their breach of contract.

4. The total compensation damage and judgment sought by the Plaintiff are \$100,000.00 for compensatory damages.

5. That the Plaintiff are awarded a judgment and any other damages which may be allowed under the Tennessee law including all reasonable lawyer fees, litigation costs and expert fees incurred to prosecute this case.

6. That the Plaintiff be awarded any additional relief the Court deems just and proper.

Respectfully submitted,

JAY B. JACKSON #016745
Attorney for Plaintiff
MITCHELL & MITCHELL
106 East College Street
Post Office Box 1336
Murfreesboro, Tennessee 37130
(615) 896-4211

SURETY

I am surety in this case for costs in this cause.

Jay B. Jackson

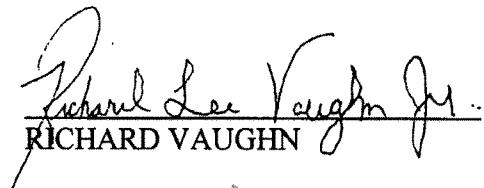
State of Tennessee, Rutherford County
The undersigned, Circuit Court Clerk of
the said County and State, hereby certifies
that the foregoing is a correct copy of
the instrument filed in the foregoing case
in the Circuit Court of Murfreesboro, Tennessee.
This 9 day of January 2015

MELISSA HARRELL

Deputy Clerk

STATE OF TENNESSEE
COUNTY OF RUTHERFORD

I, RICHARD VAUGHN, having been first duly sworn, make oath that the statements contained in my complaint are true and correct to the best of my knowledge, information and belief.


Richard Lee Vaughn Jr.
RICHARD VAUGHN

SWORN TO and subscribed before me this 9th day of January, 2015.


Meagan Kristine Underhill
NOTARY PUBLIC

My Commission Expires: 06/19/2016





Lincoln Financial Group is the marketing name for Lincoln National Corporation and its affiliates.

January 11, 2012

The Lincoln National Life
Insurance Company
Service Office:
8801 Indian Hills Drive
Omaha, NE 68114-4066
toll free (800) 423-2765
www.LFG.com

RICHARD VAUGHN
7313 POLK DRIVE
MURFREESBORO TN 37129

Re: Policy Number: 00001000310700000
Claim Number: 1100064258

Dear Mr. Vaughn:

We have completed our review of your Long Term Disability claim and have determined that we must deny benefits beyond 01/06/12.

The Policy issued to City Of Murfreesboro, Tennessee contains, but is not limited to the following:

"Total Disability" or "Totally Disabled" will be defined as follows.

1. During the Elimination Period and Own Occupation Period, it means that due to an Injury or Sickness the Insured Employee is unable to perform each of the main duties of his or her regular occupation.
2. After the Own Occupation Period, it means that due to an Injury or Sickness the Insured Employee is unable to perform each of the main duties of any gainful occupation which his or her training, education or experience will reasonably allow.

The loss of a professional license, an occupational license or certification, or a driver's license for any reason does **not**, by itself, constitute Total Disability.

The Own Occupation Period for this claim ended on 01/06/12. After a thorough review of the information currently contained in your claim file, we have determined you are capable of performing work in other occupations. Outlined below is the information reviewed which led to our determination.

Information review and action taken

In our review of your claim, all previously submitted as well as any new documentation is used to make a determination.

We evaluated current information from your physician(s), as well as other sources, including vocational information. The documentation contained in your claim file includes the following:

- Attending Physician Statement completed by Concentra Medical Center dated 04/02/10
- Attending Physician Statement completed by Dr. John Kuhn dated 04/15/10
- Attending Physician Statement completed by Dr. Tom Johns (undated)
- Office and treatment notes from Dr. Jeffrey Hazelwood dated 02/24/10 to 03/09/11

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January 11, 2012
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- Office and treatment notes from Tennessee Orthopaedic Alliance dated 11/03/09 to 08/24/10.
- Office and treatment notes from Dr. Chad Price dated 03/03/11 to 07/12/11
- Records from Middle Tennessee Ambulatory Surgery dated 11/09/09 and 08/13/10

Furthermore, we reviewed your past training, education and work experience to evaluate your capacity to perform work-related activity.

Medical records in your file show your initial evaluation with Dr. Jeffrey Hazelwood was on 10/13/10. The records note your injury dates back to 09/14/09 when you were lifting a co-worker in simulation and developed soreness then worsening pain. An MRI showed a labral tear and you underwent a SLAP surgery to repair this on 11/09/09.

Physical therapy was initiated; however, you failed to improve. An EMG on 02/24/10 was unremarkable.

Further surgery was performed on 08/13/10 with additional physical therapy and Dr. Hazelwood released you to return to work with a 5 pound weight limit to which your employer was unable to accommodate.

You consulted Dr. Chad Price on 03/03/11. You advised Dr. Price, an MRI arthrogram ordered by Dr. Kioschos showed a recurrent left shoulder SLAP tear. On 04/29/11, you underwent a left shoulder scope, biceps tenotomy, subacrominal decompression and Mumford procedure. In follow up on 05/05/11, you have been doing well and your pain is a little bit better and your motion is better.

On 06/02/11, you were treated by Dr. Chad Price. Your motion has improved; however you continue to have pain. Voltaren and Diclofane provided no relief. You continue working with therapy and are pleased with your progress up to this point. Physical exam shows active elevation is to 90 before you develop pain, passive elevation is 120, external and internal rotation is 35. Dr. Price continues to recommend no overhead work and no lifting, pushing or pulling greater than 20 pounds.

The documentation provided suggests you are not limited from working in a sedentary work capacity. The definition of sedentary work capacity, as defined by the Department of Labor, is outlined as:

Sedentary: Sitting for 6 hours out of an 8-hour day and lifting no more than 10 pounds occasionally.

Using The Dictionary of Occupation Titles as a reference, we found that you would be capable of performing the following occupations:

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<u>DOT#</u>	<u>Occupation</u>	<u>Wage (mean)</u>	<u>Physical Demand</u>
1. 249.362-026	Order Clerk	\$32,153 Annual	Sedentary
2. 205.367-062	Referral Clerk Temporary Help Agency	\$33,350 Annual	Sedentary
3. 205.362-014	Employment Clerk	\$37,987 Annual	Sedentary

The preceding list is just a sample of various jobs that you show transferable skills to perform. The list is not all-inclusive and is only a sample of possibilities. The jobs listed are found to exist within your area and are appropriate from the standpoint of adequate salary levels relative to your prior earnings. NOTE: Current hiring or job availability is not a consideration when identifying occupational alternatives; only that the occupations identified exist within the local labor market.

Summary

In summary, it is our determination that based upon your age, education, training, past work experience and your current abilities, that you are not prevented from performing work in other occupations, even if you can no longer perform your Own Occupation. Therefore, you no longer meet the definition of disability in this policy and benefits will be denied as of 01/06/12. Your payment for benefits through 01/06/12 has previously been sent under separate cover.

As a reminder, on 01/06/12 your Own Occupation Period of the policy ends. This means, to qualify for ongoing Total Disability benefits, you must have restrictions and limitations beyond 01/06/12 that render you unable to work in any gainful occupation (sedentary or otherwise) that your past training, education and experience will reasonably allow. If you believe that your condition prevents you from working in any occupation, please submit medical records, not previously submitted, that will help us evaluate your capacity to work as of 01/06/12. You may send the information to my attention at the address listed on the letterhead or you may fax the information directly to my attention at 402-501-9640. After reviewing the information, we will be in further contact with you regarding your claim for continued benefits after 01/06/12.

Appeal Rights

You, your attorney or a person legally authorized as your representative may request a review of your denied claim. Such request must be made in writing and submitted to us at the address below within 180 days after you receive this denial notice.

Risk Services
The Lincoln National Life Insurance Company
PO Box 2337
Omaha, NE 68103

Richard Vaughn
January 11, 2012
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Fax: 402-361-1460

Your request for an appeal needs to include the following:

- A letter of appeal outlining the reason(s) for your appeal. This letter needs to include your policy number and claim number.
- Medical records to support your appeal such as office and treatment notes, laboratory results, x-rays and testing results.

If you wish, you may also request copies of the pertinent documents. We will then provide you with a full written explanation of the decision within 45 days of receipt of your appeal.

You and your plan may have other voluntary alternative dispute resolution options, such as mediation, if your plan is subject to ERISA. One way to find out what may be available is to contact your local U.S. Department of Labor Office and your State insurance regulatory agency. In addition, once all required reviews of your claim have been completed, you have the right to bring a civil action under applicable law.

Please contact our office with any questions you may have at the number listed above or email us at Claims@LFG.com. You can also register for our website at www.Lincoln4Benefits.com to view your benefits and claim status online 24 hours a day.

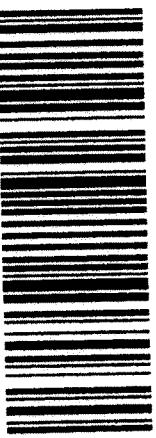
Sincerely,



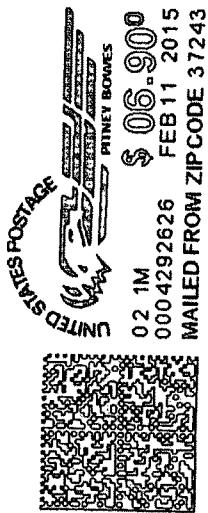
Cathy Chew
Associate Long Term Benefit Specialist
The Lincoln National Life Insurance Company

MAIL

State of Tennessee
Dept. of Commerce & Insurance
Service of Process
500 James Robertson Parkway
Nashville, TN 37243



7012 3460 0002 8947 7060



FIRST CLASS

7012 3460 0002 8947 7060 2/9/15
LINCOLN NATIONAL LIFE INSURANCE COMPANY
2908 POSTON AVENUE, % C S C
NASHVILLE, TN 37203